IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5389 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHASHANK PRAFULCHANDRA VASA

Versus

ARTIBEN SHASHANKBHAI

Appearance:

MR JD AJMERA for Petitioners

MR HRIDAY BUCH for Respondent No. 1

PUBLIC PROSECUTOR for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 10/07/2000

ORAL JUDGEMENT

#. Heard the learned advocate Mr.Hriday Buch for the respondent No.1 as the learned advocate for the

petitioners is not present. Learned APP Mr.S.T.Mehta is present for respondent No.2.

#. Vide earlier order dated 6.9.1999 the then bench had intimated to the petitioners that after filing the matter, several adjournments have been taken by or on behalf of the petitioners, and therefore, the matter was adjourned for last time and no further adjournment shall be granted. It may be noted that the learned advocate for the petitioners was intimated that on account of interim relief granted vide earlier order dated 3.5.1999, the matter shall be heard as expeditiously as possible. Thereafter also the learned advocate for the petitioners has remained absent for several dates and today also when the matter is called out neither the petitioners nor the learned advocate for the petitioners is present.

#. However, in view of the above stated facts and circumstances, the matter is taken up for final hearing.

#. Rule. Learned APP Mr.S.T.Mehta waives service on behalf of the respondent No.2 and the learned advocate Mr.Hriday Buch waives service on behalf of the respondent No.1.

#. Petitioners has challenged the legality of FIR recorded by P.S.O., Vapi Police Station, District Valsad and has contended that, FIR having been recorded without jurisdiction, deserves to be quashed.

#. The petitioner No.1 is the husband of respondent No.1. While the petitioner nos.2 and 3 are father in law and mother in law respectively of the respondent No.1. That the respondent No.1 has filed First Information Report on 9.9.1998 at Vapi Sub-district Police Station against the present petitioners on the allegations of offence made punishable under section 498-A read with section 114 of IPC and also under section 304(B) of IPC. That as per the FIR, respondent No.1 after marriage with the petitioner No.1 had gone to stay at matrimonial home where she was ill-treated for noncompliance of the demands of dowry and was ultimately driven away with minor child.

#. Petitioners have contended that, averments and allegations made in the complaint impugned in the proceedings are false, frivolous and vexatious and no such alleged offence having been committed within the territorial jurisdiction of Vapi Police Station. Recording of the said FIR being illegal deserves to be quashed under section 482 of the Criminal Procedure Code.

#. It may be noted that, sub-section 2 of section 156 prescribes that, no proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate. Further more, the said view has been expressed by the Apex Court in the matter of Satvinder Kaur Vs. State (Govt. of N.C.T. of Delhi) and another, reported vide AIR 1999 SC 3596 and in the matter of Trisuns Chemical Industry Vs. Rajesh Agarwal and others reported vide 2000 SCC (Criminal) 47.

#. I have carefully gone through the appeal memo as well as FIR and other relevant papers produced on record on behalf of the petitioners. I do not find any justification for the prayer made in the petition. The contention regarding bar of jurisdiction is premature at this stage and on that ground, the prayer to quash FIR cannot be granted in view of the observations of the Apex Court made in the above stated matters.

##. As a result of the above stated discussion, the petition fails and stands disposed of as rejected. Rule discharged. Interim relief granted earlier stands vacated.

(A.K.Trivedi,J.)
(pathan)